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Jennie Ching

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EXAMINER

PENG, FRED H

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/524,091	Applicant(s) CHING ET AL.	
	Examiner FRED PENG	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 26 February 2009.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 21-26, 41, 43, 44 and 46-56 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 21-26, 41, 43-44 and 46-56 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 21-26, 41, 43-44 and 46-56 are pending in this application.
2. The first office action dated 11/26/2008 is fully incorporated in this action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-22, 47 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy) in view of U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), and Bux et al (US 5,319,648).

Regarding claims 21, 47 and 52, McCoy teaches a system with a corresponding computer program product and method for prior to the playout of the program feed, distributing a plurality of multimedia sports from a central site server to one or more remote site servers located at one or more corresponding remote sites relative to the central control site (fig. 1, col. 5-6, 11.41-8). Whereas McCoy teaches multimedia clips, McCoy is silent on distributing a local spots from a central site server to one or more remote site servers.

In analogous art, Boylan teaches distributing local advertisements for different regions from a central site to remote sites (see fig. 7, pg. 5, Para. 0061).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy by distributing a local spots from a central site server to one or more remote site servers as taught by Boylan in order to provide local advertisements to different regions and reduce the processing at the downlink facility.

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McCoy teaches sending a plurality of control parameters from the central server to each of the one or more remote servers (fig. 18-19, col. 4, ll.33-51, col. 16, ll. 41-52). McCoy teaches transmitting the program feed from the central server to remote sites (col. 19, ll. 41-62), and each of the remote sites automatically switching between the playout of the program feed and playout of the multimedia content in accordance with the plurality of parameters received (col. 20, ll. 33-43). McCoy teaches control parameter specifying requirements for availability of the national spots on the central site server to the one or more remote servers to allow playout of the national ads (FIG.19, 618) but not explicitly about local spots.

Boylan shows that local spots can be part of distribution from central facility to remote facility to reduce the processing at the downlink facility.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boylan by distributing a local spots from a central site server to one or more remote site servers with parameter specifying requirements for availability as taught by McCoy in order to provide local advertisements to different regions using the control information in order to better inform and entertain viewers (Abstract).

McCoy and Boylan are silent about the control parameters including a playtime look ahead window parameter that sets a time period requirement before the scheduled play out of a local spot at which time each of the remote site servers checks to report to the central server a local spot missing at the remote site server.

In an analogous art, Bux discloses a receiving station to report missing I-frames of a video data transmission during a given time period in order to retransmit from the transmission station (Col 1 lines 25-31; Col 4 lines 3-9).

Therefore, the design incentive of solving the problem of reporting the missing local spot within a time period would have prompted one of ordinary skill in the art to implement a predictable variation of the prior art system of Bux to apply the known principle of protocol, reporting missing data within a certain period of time, to a known higher level applications such as local advertisements.

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McCoy is silent on the switching between the program feed and local spot.

In analogous art, Esch teaches switching between the program feed and local spot (col. 8, ll. 35-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy by switching between the program feed and local spot as taught by Esch in order to provide the local advertisements to the desired viewers, thereby increasing the effectiveness of the advertisements.

Regarding claim 22, McCoy teaches the program feed received by from the uplink facility, which reads on a network feed, but is silent on a local spot comprising local advertising or a local announcement. In analogous art, Esch teaches the local spot as advertisements (col. 3, ll. 20-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy by using local advertisements as taught by Esch in order to effectively display pertinent information to viewers.

5. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), U.S. Patent 5,099,319 to Esch et al. (Esch), Bux et al (US 5,319,648) in view of Plotnick et al (US 2008/0059997).

Regarding claims 23 and 24, McCoy teaches the central server in communication with the remote site server through a plurality of types of network links (FIG.1, 104, 116; col. 6, ll. 9-14), wherein the program feed is transmitted via one type of network link (104, satellite link).

McCoy discloses telephone land line (terrestrial link) as alternate network link but is not explicitly about distributing the local spots via the alternate link.

In an analogous art, Plotnick discloses transmitting a local ad from a server based on the bandwidth availability of a transmission media (Para 142 lines 14-17).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy so local ads can be transmitted via an alternate transmission link to better manage the overall bandwidth usage.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), U.S. Patent 5,099,319 to Esch et al. (Esch) and Bux et al (US 5,319,648) in view of U.S. Patent 5,920,700 to Gordon et al. (Gordon).

Regarding claim 25, McCoy teaches a plurality of control parameters including uplink parameters, schedule parameters (col. 4, I1.9~35, col. 4, II. 44-51, col. 9, II. 24-35, col. 10, II. 25-60, and col. 12, II. 19-30). However, McCoy is silent on teaching a storage parameters controlling the distribution of data to be received.

In analogous art, Gordon teaches storage parameters for controlling the distribution of assets (col. 5, I1.45-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy by controlling the distribution of data to be received as taught by Gordon in order to save disk space and network bandwidth by copying or deleting assets based on their usage and priority.

7. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), U.S. Patent 5,099,319 to Esch et al. (Esch), Bux et al (US 5,319,648) and U.S. Patent 5,920,700 to Gordon et al. (Gordon), in view of U.S. Patent 6,253,079 to Valentine et al. (Valentine).

Regarding claim 26, McCoy teaches schedules of multimedia insertions (see fig. 19), which reads on a scheduler parameter including a playlist transmission lookahead. The

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combination of McCoy and Gordon has been discussed above; Gordon teaches a storage parameter including playlist entries (col. 5, ll. 45-61).

McCoy, Bux, and Gordon are silent on uplink parameters including one or more of an uplink broadcast transmission, an uplink forward, or an uplink look-ahead.

In analogous art, Valentine teaches retransmitting data when the threshold of the capacity of the satellite is exceeded (col. 5, ll. 9L26, col. 5, ll. 34-67), which reads on an uplink broadcast transmission.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy, Bux, and Gordon by an uplink parameter including an uplink broadcast transmission as taught by Valentine in order to share resources on a satellite in a fair manner to prevent overloading the capacity.

8. Claims 41, 43-44, 49-50 and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy), Bux et al (US 5,319,648), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), U.S. Patent 5,099,319 to Esch et al. (Esch) in view of Nakamura et al (US 5,913,039).

Regarding claims 41, 44, 49 and 54, Nakamura discloses video reproduction is not delayed due to the time needed for locating the start of each data stream of the title of the transmission request (Col 4 lines 40-44) and consequently suggesting the video content must be staged on the server to be ready for reception without delay.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a time window limit parameter prior to a scheduled playout of each of the local spots as taught by Nakamura to better synchronize two separate streams.

Regarding claims 43, 50 and 55, Nakamura discloses video reproduction is not delayed due to the time needed for locating the start of each data stream of the title of the transmission

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request (Col 4 lines 40-44). The Official Notice is also taken that it is well known in the art that there is a transit time needed for a RF signal transmission; In subsequence, the local spot is considered to be dead when there is not enough time to transmit before the scheduled time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate a minimum transit time needed to transmit a particular local spot prior to a scheduled payout to better synchronize two separate streams.

9. Claims 46, 51 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,575 to McCoy et al. (McCoy), Bux et al (US 5,319,648), U.S. Patent Application Publication 2002/0166120 to Boylan, III et al. (Boylan), U.S. Patent 5,099,319 to Esch et al. (Esch) in view of Tsuda (US 5,345,594).

Regarding claims 46, 51 and 56, McCoy and Boylan are silent about the control parameters including a stage manager look ahead parameter that specifies a look ahead time to retrieve a queue table indicating a queue of spots to be staged, wherein the look ahead time is used in a determination of which of the local spots should be staged for transmission.

In an analogous art, Tsuda teaches transmission of a schedule of video data from a base station to a relay station for video retransmission (col. 1, lines 37-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCoy and Boylan to include a schedule of video data from a base station to a relay station for video retransmission as taught by Tsuda with added benefits of effecting a time base expanding process to the retrieved information signal (Col 2 lines 5-8).

Response to Arguments

10. Applicant's arguments filed 02/26/2009 have been fully considered but they are not persuasive. In reference to Applicant's argument:

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Further, even assuming, arguendo, that the "given time period" of Bux is somehow analogous to the "time period" of claim 21, the references nevertheless fail to disclose "the control parameters including a playtime look-ahead window parameter that sets a time period requirement specifying a time period before the scheduled payout of a local spot at which time each of the remote site servers checks to report to the central server a local spot missing at the remote site server".

Examiner's response:

The Examiner respectfully disagrees. The combinational teaching of McCoy and Boylan in view of Bux would have made it obvious to one of ordinary skill in the art at the time the invention was made to combine the systems of McCoy and Boylan to include a time window to report to the central server a local spot missing before the scheduled payout of a local spot as the design incentive of solving the problem of the missing local spot before a scheduled payout would have prompted one of ordinary skill in the art to implement a predictable variation of the prior art system of Bux to obtain a expected results of reporting to the central server a local spot missing within a time window before the scheduled payout.

In reference to Applicant's argument:

A program telecast schedule is not the same as "requirements for availability of the local spots on the central site server to the one or more remote servers". Further, none of the references disclose any control parameter that specifies requirements for availability of local spots on a central site server to remote servers. Therefore, the references do not teach or suggest this limitation.

Examiner's response:

The Examiner also disagrees. McCoy teaches requirements for availability of the national spots on the central site server to the one or more remote servers while Boylan teaches a local spot can be a part of the streams with national spots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boylan by distributing a local spots from a central site server to one or more remote site servers with parameter

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specifying requirements for availability as taught by McCoy in order to provide local advertisements to different regions using the control information in order to better inform and entertain viewers (Abstract).

In reference to Applicant's argument:

Further, the Examiner's rationale for combining McCoy and Boylan is improper. Specifically, McCoy teaches away from distributing local spots to remote sites from a central site server. Moreover, the proposed combination of McCoy and Boylan fundamentally changes a principle of operation of McCoy. Further still, the proposed combination renders McCoy unsatisfactory for its intended purpose. Moreover, the Examiner's rationale for combining McCoy and Boylan is improper because the combination fundamentally changes a principle of operation of McCoy and renders McCoy unsatisfactory for its intended purpose.

Examiner's response:

The Examiner also disagrees. The combination of prior arts are only for exemplary and not for exclusionary. Even though there are disadvantages of combining prior arts, there still exist some incentives to include known old features such as distributing local spots to remote sites from a central site server to reduce the processing at the downlink facility and simplify the operations.

Conclusion

11. Claims 21-26, 41, 43-44 and 46-56 are rejected.
12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the

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date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

June 16, 2009